

COURT OF COMMON PLEAS  
PHILADELPHIA COUNTY, PENNSYLVANIA

PETROCHOICE HOLDINGS, : NO: 19-6152  
INC. :

Plaintiff :

v. :

FRANCIS S. OROBONO, JR. :

Defendant :

November 3, 2020

Oral deposition of DAVID DiGIACOMO,  
taken pursuant to notice, held at 103  
Lewis, Brisbois, Bisgaard & Smith, 550  
East Swedesford Road, Suite 270, Wayne,  
Pennsylvania 19087, beginning at  
approximately 9:30 a.m., before Mary  
Hammond, a Registered Professional  
Reporter and Notary Public in the state of  
Pennsylvania.

1 Q. Okay. And from whom does O'Neil now  
2 purchase its automotive chemical products?

3 A. I don't know the answer to that.

4 Q. Would Mr. Walker know the answer to that?

5 A. Yes.

6 Q. And the reason for my question is it's  
7 being claimed as an element of damages, the loss  
8 profits, so I am trying to find out why it is being  
9 claimed.

10 A. I believe those were the questions that  
11 were outside of the first bullet, and that would be  
12 for Mr. Walker.

13 Q. Okay. And if that's the case, just let me  
14 know.

15 A. Okay.

16 Q. And the Kennedy Group is listed there as  
17 well.

18 It's my understanding that Mr. Walker will  
19 have information regarding the alleged loss from the  
20 Kennedy Group; is that correct?

21 A. Yes. Yes.

22 Q. Let me finish before you answer, so the  
23 court reporter can take it down.

24 Down a little bit lower, do you see where

1       it says, "Plaintiff has currently valued its loss  
2       profits as being equal to its lost economic value,  
3       which totals \$349,763.05," do you see that?

4             A.     Yes.

5             Q.     And, Mr. DiGiacomo, did you participate in  
6       calculating that figure?

7             A.     I did.

8             Q.     And how did you calculate that figure?

9             A.     So that figure was calculated by taking  
10       the gross profits from the lost business  
11       relationships, less the estimated operating expenses  
12       to fulfill those customers to derive an EBIDA,  
13       Earnings Before Income Taxes Depreciation and  
14       amortization. That EBIDA value was then applied  
15       a -- what's called a multiple to determine the value  
16       of those customers for our business that a  
17       third-party would pay for, you know, the value of  
18       those customers.

19                    So those losses, you know, have now caused  
20       our business, you know, to be worth \$349,763 less.

21             Q.     When you say -- okay.

22                    When you say "you apply a multiple," what  
23       do you mean by that?

24             A.     It's a common approach in valuing a

1 business. You look at the profits of the business  
2 or EBIDA of the business, and you apply multiple --  
3 a factor on top of that when you go to value a  
4 business, you know, business' profits.

5 Q. Is PetroChoice planning to sell its  
6 business any time in the near future?

7 MR. URGO: Objection. It's beyond  
8 the scope of what he's been asked.

9 MS. ALLEN: That's the -- that's what  
10 they used for -- to value the damages,  
11 valuation of business.

12 THE WITNESS: That's not  
13 necessarily -- it's to determine the  
14 economic value of those customers that are  
15 lost, and that's the value that I no  
16 longer have for our business.

17 BY MS. ALLEN:

18 Q. And what documents did you use to  
19 calculate that \$349,000 figure?

20 A. Internal sales and profit reports.

21 Q. And over what period of time did those  
22 internal sales and profit reports span?

23 A. It was over a 12-month period.

24 Q. And what 12-month period?

1 A. To derive an analyzed value.

2 Q. What 12-month period?

3 A. I don't recall the exact date. It was a  
4 proxy for their annualized profits.

5 Q. And those internal sales and profit  
6 reports, who created those?

7 A. They come from our financial systems.

8 Q. What do you mean by that?

9 A. Just reports generated from our financial  
10 systems.

11 Q. Who generated that report?

12 A. Various people can generate those reports.

13 Q. Do you know who those people are for those  
14 particular reports that you've used to calculate the  
15 \$349,000 figure?

16 A. I can generate those reports, so I  
17 generate them.

18 Q. Did you generate them in this particular  
19 instance?

20 A. To look at those numbers, yes.

21 Q. You see where it says "Defendant's loss of  
22 business from the Kennedy Auto Group resulted in a  
23 gross profit loss of \$68,202.61," Do you see that?

24 A. Yes.